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FM AMEMBASSY BANGKOK
TO RUEHC/SECSTATE WASHDC PRIORITY 4417
INFO RUEHCHI/AMCONSUL CHIANG MAI PRIORITY 3012
RUCPDO/DEPT OF COMMERCE WASHINGTON DC PRIORITY
RUEATRS/DEPT OF TREASURY WASHINGTON DC PRIORITY

UNCLAS BANGKOK 000581

SIPDIS

SENSITIVE
SIPDIS

STATE FOR EAP/MLS AND EB
COMMERCE FOR EAP/MAC/OKSA
TREASURY FOR OASIA
USTR FOR WEISEL

E.O. 12958: N/A

TAGS: [EINV](#) [ETRD](#) [PGOV](#) [PREL](#) [TH](#)

SUBJECT: RESPONDING TO CHANGES IN THE THAI FOREIGN BUSINESS
ACT

REF: A. BANGKOK 280

[1](#)B. BANGKOK 499
[1](#)C. BANGKOK 523

[1](#)1. (U) Action request. See paragraph 5.

[1](#)2. (SBU) On January 23, we received a Diplomatic Note providing the official translation of the proposed amendments to the Foreign Business Act (FBA, see reftels). These were e-mailed to EB/MLS. Reftel A included a draft letter the EU mission in Bangkok has proposed sending in response to the proposed changes. The letter highlights the EU view that the amendments may be inconsistent with Thailand's commitments under the GATS.

[1](#)3. (SBU) As noted in Embassy reporting, we share much of the EU's (and Japan's) concerns. However, the U.S. position differs from the EU in that most, albeit not all, U.S. services investments are under the U.S.-Thailand Treaty of Amity and Economic Relations (AER); not the FBA. The EU has been pressing the US and other missions in Bangkok to join in signing their letter or, failing that, to write their own in the belief that if there is not an official response to the Diplomatic Notes, the RTG will take non-response as acquiescence to the changes.

[1](#)4. (SBU) Given that our bilateral Treaty of Amity and Economic Relations (AER) with Thailand is now past its derogation period (since January 1, 2005) we would hesitate pointing out to the RTG inconsistencies the FBA amendments may have with GATS. On the other hand, if we do nothing we will be seen by the Europeans and others as further advantaging US business (to the detriment of those from third nations) via a treaty which the EU and others feels is questionable under WTO rules. The Europeans may raise the AER in the WTO if this issue proceeds to that forum, and the Thais have previously indicated that they will not defend the AER if it is raised in WTO.

[1](#)5. (SBU) Action Request: We request that Washington provide guidance on how we should respond to the EU's request and what we should be saying to the RTG concerning the proposed changes to the FBA.
BOYCE